

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Received by
EPA Region 7
Hearing Clerk

In the Matter of)	
)	
Omaha Standard LLC)	Docket No. RCRA-07-2023-0059
3501 S. 11th Street)	
Council Bluffs, Iowa 51501)	EXPEDITED SETTLEMENT
RCRA ID: IAR000505412)	AGREEMENT AND FINAL ORDER
Respondent.)	

EXPEDITED SETTLEMENT AGREEMENT

- 1) The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement” or “ESA”) pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.13(b).
- 2) The EPA has provided the State of Iowa with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).
- 3) Omaha Standard LLC (“Respondent”) is the owner or operator of the facility located at 3501 S. 11th Street, Council Bluffs, Iowa 51501 (“Facility”). The EPA inspected the Facility on April 13-14, 2022. As a result of the findings during the inspection and additional investigation, the EPA alleges that Respondent violated the following requirements of the RCRA hazardous waste management program:
 - a. 40 C.F.R. § 273.14(e) requires that a hazardous waste generator label universal waste lamp containers with the words “Universal Waste Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).” As a result of reviewing the compliance evaluation inspection (CEI) report, it was determined that one 8-foot fiber container was closed, dated, labeled with words “Universal Waste,” but did not include the word “Lamps.” *Repeat Violation; cited from previous inspection conducted on September 27, 2017.*
 - b. 40 CFR 262.16(b)(2)(iv) requires that a Small Quantity Generator of hazardous waste (220 - 2,200 pounds each month) perform a weekly inspection of central accumulation areas of hazardous waste containers. As a result of reviewing the compliance evaluation inspection (CEI) report, it was determined that the facility failed to perform a weekly inspection of two CAAs for the week of December 6, 2021.
 - c. 40 C.F.R. § 262.16(b)(6)(C) requires that a hazardous waste generator label hazardous waste accumulation containers with an accumulation start date. Two hazardous waste containers located in the less than 270-day accumulation area and two hazardous waste containers located in the facility paint kitchen were not labeled

with accumulation start dates. *Repeat Violation; cited from previous inspection conducted on September 27, 2017.*

- d. 40 C.F.R. § 262.16(b)(6)(A) requires that a hazardous waste generator label hazardous waste accumulation containers with the words “Hazardous Waste.” Two hazardous waste containers located in the facility paint kitchen were not labeled with the words “Hazardous Waste.” The drums contained approximately 30 gallons and 50 gallons of D001 hazardous waste paint-related material, respectively. *Repeat Violation; cited from previous inspection conducted on September 27, 2017.*
 - e. 40 C.F.R. § 262.16(b)(6)(B) requires that a hazardous waste generator label hazardous waste accumulation containers with an indication of the hazards of the contents. Two hazardous waste containers located in the facility paint kitchen were not labeled with an indication of the hazards of the contents. The drums contained approximately 30 gallons and 50 gallons of D001 hazardous waste paint-related material, respectively.
 - f. 40 CFR 262.11(g) requires that a hazardous waste generator label hazardous waste accumulation containers with all applicable waste codes, prior to shipping waste offsite. Two hazardous waste containers located in the facility paint kitchen were not labeled with the applicable hazardous waste code. The drums contained approximately 30 gallons and 50 gallons of D001 hazardous waste paint-related material, respectively.
 - g. 40 C.F.R. § 262.16(b)(2)(iii)(A) requires that a hazardous waste generator always keep hazardous waste containers closed during accumulation, except when it is necessary to add or remove waste. One hazardous waste container located in the facility paint kitchen was not closed. The container was not having hazardous waste added to or removed from it at the time that it was observed. The drum contained approximately 30 gallons of D001 hazardous waste paint-related material.
- 4) In determining the amount of the penalty to be assessed, EPA has taken into account the factors specified in Section 3008 of RCRA, 42 U.S.C. § 6928. After considering these factors, EPA has determined and Respondent agrees that settlement of this matter for a civil penalty of Five Thousand Five Hundred Dollars (\$5,500.00) is in the public interest.
- 5) Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier’s check made payable to the “United States Treasury” and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

- 6) A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Milady Peters, Paralegal
peters.milady@epa.gov.
- 7) In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) agrees to release funds held on deposit as payment to the EPA for the civil penalty upon final EPA approval of this Agreement; (6) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (7) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA; and (8) consents to electronic service of the filed ESA to the following email address: *brown1@palfinger.com*. Respondent understands that the ESA will become publicly available upon filing.
- 8) By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA.
- 9) The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.
- 10) Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. The EPA reserves the right to take any enforcement action with respect to any other past, present, or future violations of RCRA or any other applicable law.
- 11) The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State and local taxes.
- 12) Each party shall bear its own costs and fees, if any.
- 13) This Agreement is binding on the parties signing below.

IT IS SO AGREED,

JASON L. HOCT

Name (print)

President

Title (print)

J. L. Hoct

Signature

4/11/2023

Date

APPROVED BY EPA:

Candace Bednar
Chemical Branch Chief
Enforcement and Compliance Assurance Division

Date

Christopher Muehlberger, Attorney
Office of Regional Counsel

Date

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Expedited Settlement Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

Date _____

CERTIFICATE OF SERVICE
To be completed by EPA

I certify that that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order, in the matter of Omaha Standard LLC, EPA Docket No. RCRA-07-2023-0059, was sent this day in the following manner to the following addressees:

Copy via e-mail to Complainant:

Christopher Muehlberger, Office of Regional Counsel
muehlberger.chris@epa.gov

Timothy Evans, Enforcement and Compliance Assurance Division
evans.timothy@epa.gov

Milady Peters, Office of Regional Counsel
peters.milady@epa.gov

Copy via e-mail to Respondent:

Tony Brown
Facility Manager
Omaha Standard, LLC
brown1@palfinger.com

Copy via e-mail to the State of Iowa:

Ed Tormey, Acting Administrator
Environmental Services Division
Iowa Department of Natural Resources
ed.tormey@dnr.iowa.gov

Mike Sullivan, Section Supervisor
Solid Waste and Contaminated Sites Section
Iowa Department of Natural Resources
michael.sullivan@dnr.iowa.gov

Dated this _____ day of _____, _____.

Signed